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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,041	12/10/2003	John F. Witzke	WITZ-001	8453

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/733,041

Applicant(s)

WITZKE, JOHN F. 

Examiner

Mike Chambers

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Faudree. Faudree discloses a panel including a plurality of openings, and a plurality of targets positionable within said plurality of openings (fig 14, 4:69-5:5). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2 : Faudree discloses a first and second support (fig 14, 15, un-numbered vertical supports).

As to claim 4 : Faudree discloses supports attached to side portions of panel (fig 14, 15).

As to claim 5 : Faudree discloses square shaped openings (fig 14).

As to claim 6 : Faudree discloses at least two vertical and 2 horizontal rows (fig 14).

As to claim 8 : Faudree discloses sixteen openings (fig 14).

Also,

Claims 1, 5, 6, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Studen. Studen discloses a panel including a plurality of openings, and a plurality of targets positionable within said plurality of openings (fig 1). In as much

Art Unit: 3711

structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 5 : Studen discloses square shaped openings (fig 1, 21 and 15).

As to claim 6 : Studen discloses at least two vertical and 2 horizontal rows (fig 1).

As to claims 10 and 11: Studen discloses a resilient sponge materials (4:31-34).

As to claim 12 : Studen discloses targets larger than the openings (2:1-7).

As to claim 13 : Studen discloses similar targets and openings (fig 1).

Also,

Claims 1 , 5, 6, and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kao. Kao discloses a panel including a plurality of openings, and a plurality of targets positionable within said plurality of openings (fig 1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 5 : Kao discloses square shaped openings (fig 1, 117 ,128 and 135).

As to claim 6 : Kao discloses at least two vertical and 2 horizontal rows (fig 1).

As to claim 14 : Kao discloses targets with indicia (fig 1).

As to claims 15 and 16 : Kao discloses targets with numbered indicia (fig 1).

As to claim 17 : Kao discloses targets with indicia and adjacent indicia (fig 1).

Also,

Claims 1 , 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Borazjani. Borazjani discloses a panel including a plurality of openings, and a plurality of targets positionable within said plurality of openings (fig 3). In as much structure set

Art Unit: 3711

forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2: Borazjani discloses a first and second support (fig 5, item 16).

As to claim 4: Borazjani discloses supports attached to side portions of panel (fig 14, 15).

As to claim 5: Borazjani discloses square shaped openings (fig 3).

As to claim 6: Borazjani discloses at least two vertical and 2 horizontal rows (fig 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Studen in view of Official Notice. Official notice is taken that the use of handles is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a handle with the device in order to easily transport the device.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Studen. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent number of openings and layouts based on design and manufacturing choices.

Also,

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borazjani in view of Official Notice. Official notice is taken that the use of handles is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed a handle with the device in order to easily transport the device.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borazjani in view of Gill. Borazjani fails to disclose a pivotal support. Gill discloses a pivotal side support (fig 1,5,6). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the pivotal side support of Gill with the apparatus of Borazjani in order to make the device more easy to transport.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borazjani in view of Szykiel et al. Borazjani fails to disclose a goalie. Szykiel et al discloses a goalie (fig 15). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the goalie of Gill with the apparatus of Borazjani in order to better simulate a real game during practice.

#### ***Allowable Subject Matter***

Claims 19 and 20 are allowed.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on Mon-Fri 8:30-5:00.

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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061947\*5772538

Michael Chambers  
Examiner  
Art Unit 3711

August 10, 2004

  
GREGORY VIDOVICH  
SUPERVISORY PATENT EXAMINER  
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